

MERCHANT &amp; GOULD P.C.

## United States Patent Application

## DECLARATION UNDER 37 C.F.R. § 1.63

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: SYSTEM AND METHOD FOR ADAPTIVELY SELECTING AND DELIVERING RECOMMENDATIONS TO A REQUESTER.

The specification of which

- a.  is attached hereto
- b.  was filed on \_\_\_\_\_ as application serial no. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. \_\_\_\_\_ filed \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a.  no such applications have been filed.
- b.  such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (reprinted below).

### § 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903



I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name Gheorghe	First Given Name Christian	Second Given Name
0	Residence & Citizenship	City Denver	State or Foreign Country Colorado	Country of Citizenship USA
1	Mailing Address	Address 433 Fillmore	City Denver	State & Zip Code/Country Colorado 80206
Signature of Inventor 201:			Date:	
2	Full Name Of Inventor	Family Name Lou	First Given Name Qingwei	Second Given Name
0	Residence & Citizenship	City Englewood	State or Foreign Country Colorado	Country of Citizenship China
2	Mailing Address	Address 6365 S. Florence Way	City	State & Zip Code/Country
Signature of Inventor 202:			Date:	
2	Full Name Of Inventor	Family Name Mayer	First Given Name James	Second Given Name
0	Residence & Citizenship	City Denver	State or Foreign Country Colorado	Country of Citizenship USA
3	Mailing Address	Address 1775 Sherman Street, Suite 3100	City Denver	State & Zip Code/Country Colorado 80203
Signature of Inventor 203:			Date:	

S/N: Not Yet Assigned

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Christian Gheorghe et	Examiner:	Not Yet Assigned
	al.		
Serial No.:	Not Yet Assigned	Group Art Unit:	Not Yet Assigned
Filed:	October 19, 2001	Docket No.:	40205.2US01
Title:	SYSTEM AND METHOD FOR ADAPTIVELY SELECTING AND DELIVERING RECOMMENDATIONS TO A REQUESTER		

**POWER OF ATTORNEY**

The undersigned hereby appoints:

Albrecht, John W.	Reg. No. 40,481	Kowalchyk, Alan W.	Reg. No. 31,535
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Caspers, Philip P.	Reg. No. 33,227	Nelson, Anna M.	Reg. No. 48,935
Clifford, John A.	Reg. No. 30,247	Parsons, Nancy J.	Reg. No. 40,364
Cook, Jeffrey	Reg. No. P-48,649	Pauly, Daniel M.	Reg. No. 40,123
Daignault, Ronald A.	Reg. No. 25,968	Phillips, John B.	Reg. No. 37,206
Daley, Dennis R.	Reg. No. 34,994	Pino, Mark J.	Reg. No. 43,858
Daulton, Julie R.	Reg. No. 36,414	Prendergast, Paul	Reg. No. 46,068
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DiPietro, Mark J.	Reg. No. 28,707	Qualey, Terry	Reg. No. 25,148
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Goggin, Matthew J.	Reg. No. 44,125	Schuman, Mark D.	Reg. No. 31,197
Golla, Charles E.	Reg. No. 26,896	Schumann, Michael D.	Reg. No. 30,422
Gorman, Alan G.	Reg. No. 38,472	Scull, Timothy B.	Reg. No. 42,137
Gould, John D.	Reg. No. 18,223	Sebald, Gregory A.	Reg. No. 33,280
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Gresens, John J.	Reg. No. 33,112	Spellman, Steven J.	Reg. No. 45,124
Hamer, Samuel A.	Reg. No. 46,754	Stewart, Alan R.	Reg. No. 47,974
Hamre, Curtis B.	Reg. No. 29,165	Stoll-DeBell, Kirstin L.	Reg. No. 43,164
Harrison, Kevin C.	Reg. No. 46,759	Sullivan, Timothy	Reg. No. 47,981
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Hillson, Randall A.	Reg. No. 31,838	Swenson, Erik G.	Reg. No. 45,147
Holzer, Jr., Richard J.	Reg. No. 42,668	Tellekson, David K.	Reg. No. 32,314
Hope, Leonard J.	Reg. No. 44,774	Trembath, Jon R.	Reg. No. 38,344
Jardine, John S.	Reg. No. P-48,835	Tunheim, Marcia A.	Reg. No. 42,189
Johns, Nicholas P.	Reg. No. 48,995	Underhill, Albert L.	Reg. No. 27,403
Johnston, Scott W.	Reg. No. 39,721	Vandenburgh, J. Derek	Reg. No. 32,179
Kadievitch, Natalie D.	Reg. No. 34,196	Wahl, John R.	Reg. No. 33,044
Kaseburg, Frederick A.	Reg. No. 47,695	Weaver, Paul L.	Reg. No. P-48,640
Kettelberger, Denise	Reg. No. 33,924	Welter, Paul A.	Reg. No. 20,890
Keys, Jeramie J.	Reg. No. 42,724	Whipps, Brian	Reg. No. 43,261
Knearl, Homer L.	Reg. No. 21,197	Whitaker, John E.	Reg. No. 42,222

## ASSIGNMENT

WHEREAS, we, Christian Gheorghe, residing at 433 Fillmore, Denver, Colorado 80206, Qingwei Lou, residing at 6365 S. Florence Way, Englewood, Colorado 80111 and James Mayer, residing at 1775 Sherman Street, Suite 3100, Denver, Colorado 80203, made certain new and useful inventions and improvements for which we filed an application for Letters Patent of the United States on October 19, 2001, which is entitled SYSTEM AND METHOD FOR ADAPTIVELY SELECTING AND DELIVERING RECOMMENDATIONS TO A REQUESTER.

AND WHEREAS, Tian Software Company, Inc., a corporation organized and existing under and by virtue of the laws of the State of Colorado, and having an office and place of business at 1775 Sherman Street, Suite 3100, Denver, Colorado 80203 (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

NOW THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, we have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the Assignee, its successors and assigns.

AND, for the consideration aforesaid, we do hereby agree that we and our executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to us relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be

necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

AND, furthermore we covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us and that full right to convey the same as herein expressed is possessed by us.

IN TESTIMONY WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

Christian Gheorghe

STATE OF \_\_\_\_\_ )  
                    ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Christian Gheorghe to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.

[SEAL]

\_\_\_\_\_  
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_.

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Qingwei Lou

STATE OF \_\_\_\_\_ )  
                    ) ss.  
COUNTY OF \_\_\_\_\_ )

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On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, before me personally appeared Qingwei Lou to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.

[SEAL]

\_\_\_\_\_  
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_.

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James Mayer

STATE OF \_\_\_\_\_ )  
                    ) ss.  
COUNTY OF \_\_\_\_\_ )

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On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_, before me personally appeared James Mayer to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.

[SEAL]

\_\_\_\_\_  
Notary Public